

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID BENIGNI

Plaintiff

-vs-

LINENS-N-THINGS

Defendant

: CASE NO. 1:08-CV-828
:
:

: MEMORANDUM AND ORDER
: GRANTING MOTION FOR
: RECONSIDERATION
:

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Plaintiff Paul Benigni ("Benigni") brought this action in Cuyahoga County Court of Common Pleas on 26 February 2008, against his former employer, Linens 'n Things ("Linens"). Linens removed the action to this Court within thirty days of being able to do so, pursuant to 28 U.S.C. § 1446(b). Linens predicated its notice of removal on the presumption of complete diversity of citizenship and damages exceeding \$75,000.00, pursuant to 28 U.S.C. §§ 1331(a)(1) & 1441(a). On 31 March 2008 this Court entered an order remanding the matter to state court. On 4 April 2008 Linens filed Motion for Reconsideration of Order of Remand ("Motion for Reconsideration").

For the reasons set forth below, this Court grants the motion for reconsideration.

A defendant may remove a civil case over which the United States district courts would have original jurisdiction. See 28 U.S.C. § 1441(a). The defendant seeking removal bears the burden of establishing federal subject matter jurisdiction. Ahearn v. Charter Township of Bloomfield, 100 F.3d 451, 453-54 (6th Cir.1996).

A federal district court has diversity jurisdiction over any civil action where the matter in controversy exceeds \$75,000.00, exclusive of interests and costs, and is between citizens of different states. See 28 U.S.C. § 1332(a). Defendant by the Motion for Reconsideration has established by a preponderance of the evidence that the plaintiff's claims meet the federal amount in controversy requirement. Gafford v. Gen. Elec. Co., 997 F.2d 150, 158 (6th Cir.1993).

For the above discussed reasons, Linen's motion is GRANTED.

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 15 April 2008